



1313 North Market Street
P.O. Box 951
Wilmington, DE 19899-0951
302 984 6000
www.potteranderson.com

Bindu A. Palapura
Attorney at Law
Partner
bpalapura@potteranderson.com
302 984-6092 Direct Phone

October 19, 2023

VIA ELECTRONIC FILING

The Honorable Colm F. Connolly
Chief, United States District Judge
United States District Court, District of Delaware
844 N. King Street
Wilmington, DE 19801

Re: *Florcsk v. Unstoppable Domains, Inc.*, C.A. No. 22-1230-CFC

Dear Chief Judge Connolly:

I write on behalf of Plaintiff Scott Florcsk ("Florcsk") to respectfully request that the Court set a time for a Rule 16 Scheduling Conference in this case.

Florcsk filed his First Amended Complaint (D.I. 14, "FAC") against Defendant Unstoppable Domains, Inc. ("UD") almost a year ago on November 14, 2022 seeking: 1) declaratory judgment of non-infringement of UD's purported trademark rights (Count I); 2) unfair competition (Count II); and 3) violation of Section 2 of the Sherman Antitrust Act (Count III). On December 5, 2022, UD filed a partial motion to dismiss Counts II and III (D.I. 17), and briefing was completed on January 5, 2023. In the intervening months after UD's motion was fully briefed, UD voluntarily dismissed the two related cases it filed against Florcsk (C.A. No. 22-1231-CFC) and Florcsk's domain name registrar, Gateway Registry, Inc. (C.A. No. 22-948-CFC). Additionally, on September 26, 2023, UD withdrew its rejected application for its WALLET trademark registration discussed in Florcsk's Answering Brief in Opposition to UD's Motion to Dismiss (D.I. 20). The next day, the TTAB dismissed UD's appeal.

Even though UD dismissed its claims, the harm to Florcsk continues. Florcsk has been unable to market and sell his .WALLET second-level domains while there remains a dispute as to trademark infringement – a dispute Florcsk hopes to resolve

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through adjudication of Count I of the FAC. In its public announcement of the dismissal, dated September 12, 2023, UD stated that “We voluntarily dismissed our .wallet case because defendants stopped selling conflicting domains. We achieved our goal of preventing harmful .wallet collisions and will continue to vigorously defend the rights of all of our customers & apps.”¹ As such, the threat of another lawsuit by UD continues to loom should Florcsk attempt to sell his .WALLET second level domains.

Florcsk therefore believes it would be appropriate at this point to move forward with a scheduling conference so that the parties may begin discovery while they await a ruling on UD’s motion. Pursuant to D. Del. LR 7.1.1, counsel for the parties conferred, and UD opposes this request.

Counsel remain available at the Court’s convenience should Your Honor have any questions.

Respectfully,

/s/ Bindu A. Palapura

Bindu A. Palapura

BAP:nmt/11120158/22478.00002

Enclosure

cc: Clerk of the Court (via hand delivery)
Counsel of Record (by electronic mail)

¹<https://twitter.com/unstoppableweb/status/1701704919752011958?t=Kt6fgZiIL6FNrXMwkrwupA&s=35> (Exhibit 1, accessed 10/19/23).